

# HANNA CAMPBELL & POWELL, LLP

March 13, 2015

# Via Overnight Delivery

Leslie Patterson, Remedial Project Manager U.S. Environmental Protection Agency 77 West Jackson Blvd. (SR-6J) Chicago, IL 60604-3590

Re: South Dayton Dump and Landfill Site, 1975 Dryden Road (aka) Springboro Pike, Moraine, Ohio

Dear Ms. Patterson:

This letter is in response to the United States Environmental Protection Agency's ("the Agency") Request for Information pertaining to the above-captioned Site, dated January 16, 2015. The response is submitted on behalf of Bridgestone American Tire Operations, LLC with regard to operations of the Dayton Tire and Rubber Company ("the Company") from 1961 to 1980. Pursuant to an agreement reached with Thomas Nash, Associate Regional Counsel, the Company was granted an extension of time, to and including March 20, 2015, to submit its response.

## **Preliminary Statement**

At the outset, the Company denies any implication that a waste disposal connection exists between the Company and the Site which would trigger any potential liability on the part of the Company under the Comprehensive Environmental Response Compensation Liability Act (CERCLA).

While the Company has carried out a search for the information requested, it should be noted that it objects generally to the Information Request because it is overly broad and insufficiently limited in scope as to time and geographic location. It imposes an undue burden on the Company and, in the absence of any established connection between the Company and the Site, becomes arbitrary and an abuse of discretion.

The Company specifically objects to what it believes is a vague and inaccurate reference to 18 U.S.C. §1001 and the possible penalties thereunder. Any information provided by the Company is based upon a reasonable investigation and search of records kept in the ordinary course of business and the Company's responses are based upon that reasonable investigation. 18 U.S.C. §1001 applies only to knowing and willful falsifications or concealments and is not applicable to all circumstances wherein the Agency claims that information supplied is false or fictitious.

The Company further objects to the request for the reason that it is beyond the scope of the Agency's authority pursuant to CERCLA §104(e), 42 U.S.C. §9604(e).

In addition, the Company objects to the request to the extent that it purports to impose a continuing obligation upon the Company to submit responsive information which may be discovered at a later time. The Company is unaware of any requirement under CERCLA or otherwise which imposes such an obligation. If the Agency has other information which it believes may establish a connection between the Company and the Site, the Company requests that such information be supplied. Absent being apprised of such other information, the Company shall assume that the written response fully satisfies the Agency's request for information. The Company hereby incorporates by reference, as if fully rewritten, its response, dated March 14, 2006, to the Agency's Information request dated February 1, 2006.

Finally, the Company objects to the Agency's request that the response be certified "by the individual who prepared the response or the responsible corporate official acting on behalf of the corporation". The Company is unaware of any requirement under CERCLA or otherwise that imposes such a duty. The matters that are the subject of this request, and the Company's response, are not within the personal knowledge of the undersigned nor is there any official of the Company or other individual who has personal knowledge of all such matters. This letter constitutes the corporate response of Bridgestone Americas Tire Operations, LLC to the Information Request and is based upon information obtained by and from employees and counsel for the Company. The undersigned is authorized to and has signed the response as counsel for the Company.

Subject to and without waiver of the foregoing objections and general comments, the Company has made a reasonable and diligent search and inquiry for the requested information and responds as follows.

#### **INFORMATION REQUESTED**

1. Identify all persons consulted in the preparation of the answers to these questions.

#### ANSWER:

This is a corporate response which is signed by counsel on behalf of the The response is based upon information provided or Company. researched by Company employees or its counsel and upon records regularly kept by the Company in the ordinary course of business. The Company otherwise objects to the request to the extent that it calls for the inclusion of its attorneys on the grounds that such information is protected privileges attorney/client disclosure by pertaining to from communications, attorney work product, and material prepared for trial or in anticipation of litigation. Subject to and without waiver of these objections, Company employees who were consulted in preparation of the Company's responses were Timothy Bent, Director, Environmental Affairs, and Jane Johnson, Manager of Remediation.

2. Identify all documents consulted, examined, or referred to in the preparation of the answers to these questions and provide copies of all such documents.

ANSWER:

The Company has reviewed records of its Environmental Affairs department and available historical records of the Company's former Dayton Tire and Rubber Company manufacturing plant in Dayton, Ohio, kept in the ordinary course of business, in the preparation of this response. Other than as indicated below, in the course of such review, the Company has not discovered any document or other information from its own files to date which refers or relates to the Site or which tends to indicate that the Company arranged for disposal of hazardous substances at the Site.

3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question or who may be able to provide additional responsive documents, identify such persons. Provide their current, or last known, address, telephone numbers, and e-mail addresses.

ANSWER: The Company is not presently aware of any such persons.

4. Provide names, addresses, telephone numbers, and e-mail addresses of any individuals, including former and current employees, who may be knowledgeable about Respondent's operations and hazardous substances handling, storage and disposal practices.

ANSWER:

As stated above, following a diligent search and inquiry, the Company has not discovered any document or other information from its own files to date which refers or relates to the Site, or which tends to indicate that the Company arranged for the disposal of hazardous substances at the Site. In the absence of evidence to indicate that a connection exists between the Company and the disposal of hazardous substances at the Site which would trigger potential liability on the part of the Company under CERCLA, and to the extent the request seeks information which is unrelated to the Site, the Company objects to this request as being overly broad, unduly burdensome, arbitrary and an abuse of discretion.

5. State the dates(s) on which the Respondent sent, brought or moved drums and/or hazardous substances to the South Dayton Dump and Landfill (SDDL) Site and the names, addresses, telephone numbers, and e-mail addresses of the person(s) making arrangements for the drums and/or hazardous substances to be sent, brought or moved to the SDDL Site.

## ANSWER:

As stated above, following a diligent search and inquiry, the Company has not discovered any document or other information from its own files to date which refers or relates to the Site, or which tends to indicate that the Company arranged for the disposal of hazardous substances at the Site. In the absence of evidence to indicate that a connection exists between the Company and the disposal of hazardous substances at the Site which would trigger potential liability on the part of the Company under CERCLA, and to the extent the request seeks information which is unrelated to the Site, the Company objects to this request as being overly broad, unduly burdensome, arbitrary and an abuse of discretion.

6. Did Respondent haul or send materials to SDDL in vehicles it owned, leased or operated? If yes, during what time periods did this occur? If no, how did Respondent transport materials to SDDL? Identify the hauler(s) and provide the addresses, telephone numbers, and e-mail addresses of these entities.

# **ANSWER**:

As stated above, following a diligent search and inquiry, the Company has not discovered any document or other information from its own files to date which refers or relates to the Site, or which tends to indicate that the Company arranged for the disposal of hazardous substances at the Site. In the absence of evidence to indicate that a connection exists between the Company and the disposal of hazardous substances at the Site which would trigger potential liability on the part of the Company under CERCLA, and to the extent the request seeks information which is unrelated to the Site, the Company objects to this request as being overly broad, unduly burdensome, arbitrary and an abuse of discretion.

7. List all federal, state and local permits and/or registrations and their respective permit numbers issued to Respondent for the transport and/or disposal of materials.

#### ANSWER:

8. Which shipments or arrangements were sent under each permit? If what happened to the hazardous substances differed from what was specified in the permit, please state, to the best of your knowledge, the basis or reason for such difference.

# ANSWER:

As stated above, following a diligent search and inquiry, the Company has not discovered any document or other information from its own files to date which refers or relates to the Site, or which tends to indicate that the Company arranged for the disposal of hazardous substances at the Site. In the absence of evidence to indicate that a connection exists between the Company and the disposal of hazardous substances at the Site which would trigger potential liability on the part of the Company under CERCLA, and to the extent the request seeks information which is unrelated to the Site, the Company objects to this request as being overly broad, unduly burdensome, arbitrary and an abuse of discretion.

9. Were all hazardous substances transported by licensed carriers to hazardous waste Treatment Storage and Disposal Facilities permitted by the U.S. EPA?

# ANSWER:

As stated above, following a diligent search and inquiry, the Company has not discovered any document or other information from its own files to date which refers or relates to the Site, or which tends to indicate that the Company arranged for the disposal of hazardous substances at the Site. In the absence of evidence to indicate that a connection exists between the Company and the disposal of hazardous substances at the Site which would trigger potential liability on the part of the Company under CERCLA, and to the extent the request seeks information which is unrelated to the Site, the Company objects to this request as being overly broad, unduly burdensome, arbitrary and an abuse of discretion.

10. List all federal, state and local permits and/or registrations and their respective permit numbers issued for the transport and/or disposal of wastes.

#### ANSWER:

As stated above, following a diligent search and inquiry, the Company has not discovered any document or other information from its own files to date which refers or relates to the Site, or which tends to indicate that the Company arranged for the disposal of hazardous substances at the Site. In the absence of evidence to indicate that a connection exists between the Company and the disposal of hazardous substances at the Site which would trigger potential liability on the part of the Company under CERCLA, and to the extent the request seeks information which is

unrelated to the Site, the Company objects to this request as being overly broad, unduly burdensome, arbitrary and an abuse of discretion.

11. Does your company or business have a permit or permits issued under Resource Conservation and recovery Act? Does it have or has it ever had, a permit or permits under the hazardous substance laws of the State of Ohio? Does your company or business have any EPA identification number, or an identification number supplied by the State Environmental Protection Agency? Supply any such identification number(s) your company or business has.

## ANSWER:

As stated above, following a diligent search and inquiry, the Company has not discovered any document or other information from its own files to date which refers or relates to the Site, or which tends to indicate that the Company arranged for the disposal of hazardous substances at the Site. In the absence of evidence to indicate that a connection exists between the Company and the disposal of hazardous substances at the Site which would trigger potential liability on the part of the Company under CERCLA, and to the extent the request seeks information which is unrelated to the Site, the Company objects to this request as being overly broad, unduly burdensome, arbitrary and an abuse of discretion.

12. Identify whether Respondent ever filed a Notification of Hazardous Waste Activity with the EPA or the corresponding agency or official of the State of Ohio, the date of such filing, the wastes described in such notice, the quantity thereof described in such notice, and the identification number assigned to such facility by EPA or the state agency or official.

## ANSWER:

13. Identify all individuals who currently have and those who have had responsibility for Respondent's environmental matters (e.g. responsibility for the disposal, treatment, storage, recycling, or sale of Respondent's wastes). Also provide each individual's job title, duties, dates performing those duties, supervisors for those duties, current position or the date of the individual's resignation, and the nature of the information possessed by such individuals concerning Respondent's waste management. For each individual identified in response to this question provide the current or most recent known address, telephone number and e-mail address.

## ANSWER:

As stated above, following a diligent search and inquiry, the Company has not discovered any document or other information from its own files to date which refers or relates to the Site, or which tends to indicate that the Company arranged for the disposal of hazardous substances at the Site. In the absence of evidence to indicate that a connection exists between the Company and the disposal of hazardous substances at the Site which would trigger potential liability on the part of the Company under CERCLA, and to the extent the request seeks information which is unrelated to the Site, the Company objects to this request as being overly broad, unduly burdensome, arbitrary and an abuse of discretion.

- 14. Describe the containers used to take any type of waste from Respondent's operation, including but not limited to:
  - a. The type of container (e.g. 55 gal. drum, dumpster, etc.);
  - b. The colors of the containers;
  - c. Any distinctive stripes or other markings on those containers;
  - d. Any labels or writing on those containers (including the content of those labels);
  - e. Whether those containers were new or used; and
  - f. If those containers were used, a description of the prior use of the containers.

## ANSWER:

15. For any type of waste describe Respondent's contracts, agreements, or other arrangements for its disposal, treatment, or recycling. Provide copies of all documents relating to the transportation or disposal of said waste, including correspondence and manifests. Include all correspondence and records of communication between Respondent and Cyril Grillot, Kenneth Grillot, Alcine Grillot, or Horace Boesch, Sr.

# ANSWER:

As stated above, following a diligent search and inquiry, the Company has not discovered any document or other information from its own files to date which refers or relates to the Site, or which tends to indicate that the Company arranged for the disposal of hazardous substances at the Site. In the absence of evidence to indicate that a connection exists between the Company and the disposal of hazardous substances at the Site which would trigger potential liability on the part of the Company under CERCLA, and to the extent the request seeks information which is unrelated to the Site, the Company objects to this request as being overly broad, unduly burdensome, arbitrary and an abuse of discretion. Subject to and without waiver of these objections, the plant's primary solid waste transporter during the relevant timeframe was Industrial Waste Disposal Company, Inc. (IWD). The Dayton Tire and Rubber Company Facility ceased operations in 1980 and was sold in 1981. Attached hereto is correspondence dated May 7, 1980 wherein IWD identified various disposal sites it utilized for The Dayton Tire and Rubber Company's waste. IWD did not identify the subject Site as having received any of the Company's waste.

- 16. Provide copies of such contracts and other documents reflecting such agreements or arrangements.
  - g. State whether Respondent sent each type of its waste for disposal, treatment, or recycling.
  - h. Identify all entities and individuals who picked up waste from Respondent or who otherwise transported the waste away from Respondent's operations (these companies and individuals shall be called "Waste Carriers" for purposes of this Information Request).
  - i. If Respondent transported any of its wastes away from its operations, please so indicate and answer all questions related to "Waste Carriers" with reference to Respondent's actions.
  - j. For each type of waste specify which Waste Carrier picked it up.
  - k. For each type of waste, state how frequently each Waste Carrier picked up such waste.
  - 1. For each type of waste state the volume picked up by each Waste Carrier (per week, month, or year).
  - m. For each type of waste state the dates (beginning & ending) such waste was picked up by each Waste Carrier.

- n. Provide copies of all documents containing information responsive to the previous seven questions.
- o. Describe the vehicles used by each Waste Carrier to haul away each type of waste including but not limited to:
  - i. The type of vehicle (e.g., flatbed truck, tanker truck, containerized dumpster truck, etc.);
  - ii. Names or markings on the vehicles; and
  - iii. The color of such vehicles.
- p. Identify all of each Waste Carrier's employees who collected Respondent's waste.
- q. Provide all documents indicating the ultimate disposal/recycling/treatment location for each type of waste.
- r. Describe how Respondent managed pickups of each waste, including by not limited to:
  - i. The method for inventorying each type of waste:
  - ii. The method for requesting each type of waste to be picked up;
  - iii. The identity of (see Definitions) the waste carrier employee/agent contacted for pickup of each type of waste;
  - iv. The amount paid or the rate paid for the pickup of each type of waste;
  - v. The identity of (see Definitions) respondent's employee who paid the bills; and the identity of (see Definitions) the individual (name or title) and company to whom Respondent sent the payment for pickup of each type of waste.
- s. Identify the individual or organization (i.e. Respondent, the Waste Carrier, or, if neither, identify such other person) who selected the location where each of the Respondent's wastes were taken.
- t. State the basis for and provide any documents supporting the answer to the previous question.
- u. Describe all wastes disposed by Respondent into Respondent's drains including but not limited to:
  - i. The nature and chemical composition of each type of waste;
  - ii. The dates on which those wastes were disposed;
  - iii. The approximate quantity of those wastes disposed by month and year;
  - iv. The location to which these wastes drained (e.g. on-site septic system, onsite storage tank, pre-treatment plant, Publicly Owned Treatment Works (POTW, etc.); and
  - v. Whether and what pretreatment was provided.
- v. Identify any sewage authority or treatment works to which Respondent's waste was sent.
- w. If not already provided, specify the dates and circumstances when Respondent's waste was taken to the SDDL Site, and identify the companies or individuals who brought Respondent's waste to the Site. Provide all documents which support or memorialize your response.

ANSWER: As stated above, following a diligent search and inquiry, the Company has not discovered any document or other information from its own files to

date which refers or relates to the Site, or which tends to indicate that the Company arranged for the disposal of hazardous substances at the Site. In the absence of evidence to indicate that a connection exists between the Company and the disposal of hazardous substances at the Site which would trigger potential liability on the part of the Company under CERCLA, and to the extent the request seeks information which is unrelated to the Site, the Company objects to this request as being overly broad, unduly burdensome, arbitrary and an abuse of discretion. Subject to and without waiver of these objections, the plant's primary solid waste transporte during the relevant timeframe was Industrial Waste Disposal Company, Inc. (IWD). The Dayton Tire and Rubber Company Facility ceased operations in 1980 and was sold in 1981. Attached hereto is correspondence dated May 7, 1980 wherein IWD identified various disposal sites it utilized for The Dayton Tire and Rubber Company's waste. IWD did not identify the subject Site as having received any of the Company's waste.

17. Provide all Resource Conservation and Recovery Act (RCRA) Identification Numbers issued to Respondent by EPA or a state for Respondent's operations.

#### ANSWER:

As stated above, following a diligent search and inquiry, the Company has not discovered any document or other information from its own files to date which refers or relates to the Site, or which tends to indicate that the Company arranged for the disposal of hazardous substances at the Site. In the absence of evidence to indicate that a connection exists between the Company and the disposal of hazardous substances at the Site which would trigger potential liability on the part of the Company under CERCLA, and to the extent the request seeks information which is unrelated to the Site, the Company objects to this request as being overly broad, unduly burdensome, arbitrary and an abuse of discretion.

18. Identify (see Definitions) all federal offices to which Respondent has sent or filed information about hazardous substance or hazardous waste.

## **ANSWER:**

As stated above, following a diligent search and inquiry, the Company has not discovered any document or other information from its own files to date which refers or relates to the Site, or which tends to indicate that the Company arranged for the disposal of hazardous substances at the Site. In the absence of evidence to indicate that a connection exists between the Company and the disposal of hazardous substances at the Site which would trigger potential liability on the part of the Company under

CERCLA, and to the extent the request seeks information which is unrelated to the Site, the Company objects to this request as being overly broad, unduly burdensome, arbitrary and an abuse of discretion.

19. State the years during which such information was filed.

ANSWER:

As stated above, following a diligent search and inquiry, the Company has not discovered any document or other information from its own files to date which refers or relates to the Site, or which tends to indicate that the Company arranged for the disposal of hazardous substances at the Site. In the absence of evidence to indicate that a connection exists between the Company and the disposal of hazardous substances at the Site which would trigger potential liability on the part of the Company under CERCLA, and to the extent the request seeks information which is unrelated to the Site, the Company objects to this request as being overly broad, unduly burdensome, arbitrary and an abuse of discretion.

20. Identify (see Definitions) all state offices to which Respondent has sent or filed hazardous substance or hazardous waste information.

ANSWER:

As stated above, following a diligent search and inquiry, the Company has not discovered any document or other information from its own files to date which refers or relates to the Site, or which tends to indicate that the Company arranged for the disposal of hazardous substances at the Site. In the absence of evidence to indicate that a connection exists between the Company and the disposal of hazardous substances at the Site which would trigger potential liability on the part of the Company under CERCLA, and to the extent the request seeks information which is unrelated to the Site, the Company objects to this request as being overly broad, unduly burdensome, arbitrary and an abuse of discretion.

21. State the years during which such information was sent/filed.

ANSWER:

As stated above, following a diligent search and inquiry, the Company has not discovered any document or other information from its own files to date which refers or relates to the Site, or which tends to indicate that the Company arranged for the disposal of hazardous substances at the Site. In the absence of evidence to indicate that a connection exists between the Company and the disposal of hazardous substances at the Site which

would trigger potential liability on the part of the Company under CERCLA, and to the extent the request seeks information which is unrelated to the Site, the Company objects to this request as being overly broad, unduly burdensome, arbitrary and an abuse of discretion.

22. List all federal and state environmental laws and regulation sunder which Respondent has reported to federal or state governments, including but not limited to: Toxic Substances Control Act, 15, U.S.C. Sections 2601 et seq., (TSCA); Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Sections 1101 et seq., (EPCRA); and the Clean Water Act (the Water Pollution Prevention and Control Act), 33 U.S.C. Sections 1251 et seq.; Solid Waste and Infectious Waste Regulations, OAC 3745-27 (former rule EP-20)' Licenses for Solid Waste, Infectious Waste Treatment, or Construction and Demolition Debris Facilities, OAC 3745-37 (former rule EP-33); Solid and Hazardous Wastes, ORC 3734-01 through 3734-11; Open Burning Standards, OAC 3745-19-03.

#### ANSWER:

As stated above, following a diligent search and inquiry, the Company has not discovered any document or other information from its own files to date which refers or relates to the Site, or which tends to indicate that the Company arranged for the disposal of hazardous substances at the Site. In the absence of evidence to indicate that a connection exists between the Company and the disposal of hazardous substances at the Site which would trigger potential liability on the part of the Company under CERCLA, and to the extent the request seeks information which is unrelated to the Site, the Company objects to this request as being overly broad, unduly burdensome, arbitrary and an abuse of discretion.

23. Identify the federal and state offices to which such information was sent.

#### ANSWER:

We trust that the foregoing constitutes a sufficient response to the Agency's Information Request. Please direct any future inquiries or correspondence regarding this response to William D. Wick, Esq., Wactor & Wick, LLP, 180 Grand Ave., Suite 950,Oakland, CA 94612; telephone: 510-465-5750; Fax: 510-465-5697; e-mail: bwick@ww-envlaw.com.

Very truly yours,

HANNA, CAMPBELL & POWELL, LLP

David T. Moss

DTM/ckp Enclosures

<<HCP #789733-v1>>

cc: William Wick, Esq.



# INDUSTRIAL WASTE DISPOSAL CO., INC. P. O. BOX 1453 3975 WAGONER FORD ROAD • DAYTON, OHIO 45414 PHONE 513 278-0821

May 7, 1980

P.O. Box 96 2342 Riverside Drive Dayton, Ohio 45407

Attn: Mr. Ralph Ball

Dear Mr. Ball:

The purpose of this letter is to trace the history of your waste' disposal by listing in chronological order the sanitary landfills TWD has utilized for the disposal of your waste since 1956.

- (A) From 1956 to 1960, your waste material was dumped at the Roger Groves Landfill located on River Road, Dayton, Ohio.
- (B) For the period from 1960 to 1966, your waste was taken to both the above Groves Landfill and Sanitary Landfill Inc. (a subsidiary of IWD) located on Dorothy Lane.
- (C) From 1966 to 1971, we used North Sanitary Landfill, Inc.
  (a subsidiary of IWD) located on the east side of Valleycrest Drive.
- (D) From 1971 to 1976, two sites were used; North Sanitary Landfill, Inc. (a subsidiary of IWD) located on the west side of Valleycrest Drive, and Sanitary Landfill, Inc. (a subsidiary of IWD) located on Cardington Road.
- (E) From 1976 to 1979, only Sanitary Landfill, Inc. on Cardington Road was utilized.
  - (F) Effective in October 1979 to the present, your waste has been dumped at North Sanitary Landfill Inc. (a subsidiary of IVD) located on Pinnacle Road.

All of the above disposal sites either were or are properly licensed by all local, state, and federal regulatory agency requirements in existence at their respective times of operations. Dayton Tire & Rubber Mr. Ralph Ball May 7, 1980 Page -2-

As soon as possible, IWD would like to be informed of a definite timetable for us to begin removing our waste removal equipment from your plant. In addition, we are interested in purchasing the one stationary compactor owned by DT&R which is used for corrugated recycling. We are also interested in purchasing your tire shredder.

Please do not hesitate to call with any questions or problems.

Sincerely yours,

Dennis R, Mantel

Vice President of Sales

Dennis R. Mantel

DRM; kb